

ONTARIO ATTORNEY GENERAL LAW LIBRARY
KF 337 ZB3 O53 v.2 STK
Report of the Task Force on Legal Aid



00000422



Ministry of the
Attorney
General

Report of The Task Force on Legal Aid

PART II

The Hon. Mr. Justice John H. Osler, Chairman

KF
337
ZB3
O53
1974-75
v.2
c.1

KF
337
ZB3
O53
1974-75
v.2
c.1

Ontario. Task Force on Legal Aid
Report of the Task Force on Legal
Aid

DATE

KF
337
ZB3
O53
1974-75
v.2
c.1

Ontario. Task Force on Legal Aid
Report of the Task Force on Legal
Aid

ONTARIO
MINISTRY OF THE
ATTORNEY GENERAL
LAW LIBRARY

MINISTRY OF THE
ATTORNEY GENERAL
LAW LIBRARY



Digitized by the Internet Archive
in 2017 with funding from
Ontario Council of University Libraries

https://archive.org/details/mag_00000422



MINISTRY OF THE
ATTORNEY GENERAL
LAW LIBRARY

Ministry of the
Attorney General

Report of The Task Force on Legal Aid

PART II

The Hon. Mr. Justice John H. Osler, Chairman



CHAIRMAN
The Hon. Mr. Justice John H. Osler
MEMBERS

Peter deC. Cory, Q.C.
Dr. Daniel G. Hill
Alexander Ross
Stanley Sadinsky
Mrs. Anne Scace
Geo. E. Wallace, Q.C.

COUNSEL
Ian Scott, Q.C.

EXECUTIVE SECRETARY
Marie Corbett

Task Force on
Legal Aid

416/965-7773

Suite 334
145 Queen St. West
Toronto Ontario
M5H 2N7

June 16th, 1975

The Honourable John T. Clement, Q.C.,
Minister of Justice and Attorney
General for Ontario,
18th Floor,
18 King Street East,
Toronto, Ontario.

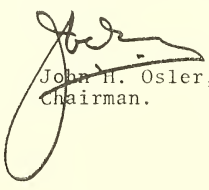
Dear Mr. Attorney,

RE: Task Force on Legal Aid

I have the honour to submit the second
Report of your Task Force on Legal Aid.

Yours very truly,

JHO/jm


John H. Osler,
Chairman.

Delivery of Legal Aid
to
Persons in Remote Areas
and to
Native People

INTRODUCTION

The magnitude of the task of providing effective delivery of legal aid to remote areas and to native people and the problems inherent therein quickly become apparent on examination of a map of our Province. The remote areas we speak of are mainly in Northern Ontario extending to the northern limits of the Province and to the shores of Hudson and James Bays. The native people are members of more than 200 bands and are located in all areas of the Province, north and south. The isolated communities referred to occur mainly throughout the north and may have population figures of one thousand to two thousand people. In one case there are as many as six thousand people without the service of a lawyer.

In addition to the problems of geographic remoteness and physical inaccessibility, except by air service which itself is dependent upon the season of the year and local weather conditions, there exists the problem of communication due to barriers of both language and culture. The natural reluctance of native people to make use of the Plan and the lack of interaction between native and non-native persons have further complicated the task of the administrators and necessarily affected delivery of the services provided under the Plan.

It has to be acknowledged that no service, whether legal, educational, medical, or social, can be extended to remote areas in truly equal quality and in the same degree as that extended in the more populated areas. It must remain our aim, however, to provide service of such quality and degree that would be acceptable elsewhere in the Province.

It is not surprising, therefore, that the information placed before this Task Force demonstrated the varied effects of these elements of distance, difficulty in transportation, lack of knowledge and lack of communication. In summary, the information received highlighted the effects of isolation, both physical and cultural.

In other sections of our Report, we have deliberately attempted to stay within the proper bounds of concern for an organization dedicated to the delivery of legal services. As there can be no clearly defined boundary between the areas of interest of law and those of other disciplines, such as education, sociology and economics, we have inevitably strayed from time to time beyond what some might consider the proper limits of a Task Force on Legal Aid. On the whole, these meanderings have been minimal.

In our examination of the problems related to the delivery of legal services to native peoples and remote communities, we have found it impractical to stay as rigidly within the limits of the legal system. In this area, as in no other, differences of opinion on some major points have developed which have proved impractical to bridge, or to compromise. Indeed, it may well be that we shall be performing a more valuable service by placing before Government the two points of view on these matters that have emerged.

But before doing so, we should begin by outlining those areas in which there was unanimity among our members. Numerically these areas prove by far the greater.

AREAS OF CONCERN IN SECURING EFFECTIVE DELIVERY

The Law Society demonstrated its awareness of the difficulties in securing effective delivery of legal aid to persons in remote areas and to native people by appointing a special committee to investigate and report in 1973. The recommendations of this committee have been considered along with the material received during public hearings, interviews with informed persons and a report prepared by Harvey Savage entitled "Report on the Delivery of Legal Services to Native Populations". In addition, one of our members was privileged to accompany Court personnel on a circuit during which Courts were held on three reserves and in three isolated communities.

A large number of the problems expressed to us are no doubt due in part to the remoteness of the northern regions of our Province and to its physical inaccessibility except in favourable weather conditions and then only with the use of an expensive air service. In addition, however, it is important to record again that problems can also be attributable to barriers of both language and culture.

Even with these formidable impediments, a number of relatively simple steps can and should be taken in order to improve the chances that an effective legal service can be delivered in this area.

Just as we said in Part I of our Report, the key to effective delivery in the north and to native groups may be the very same one that applies in the south, east and west—flexibility. Due to the variety of problems and circumstances, all forms of delivery must be available to the Plan to be utilized in the appropriate circumstances. The choice of any one of the following in our opinion should be available within the ambit of the Plan for the north and for native populations, namely:

1. The fee for service lawyer acting on certificate
2. The duty counsel—Civil and Criminal
3. The clinic model with rotating duty counsel
4. The clinic model with full time legal and para-legal staff
5. The placement of a lawyer to practise in an area not now served by the Plan and who might be subsidized by grant or provided with a guaranteed minimum income.

It must also be emphasized that such choice should only be made after full consultation with the local Bar, the Area Director and his Committee; but in those areas of the special concern of this Report, such decisions will have to be finally made by the Provincial Board on the advice of those especially concerned with the north and native populations.

Further, in considering our recommendations, we recognize that there are isolated communities throughout the north, other than reserves, whose citizens are experiencing the same difficulties of cost of transportation to Court sittings, lack of communication and difficulty in securing applications or certificates. We desire that any proposals made should be such as would apply equally and equitably to such persons and such areas as well as reserves.

We now submit our unanimous conclusions on the following areas of concern.

1. Difficulty in Applying for Legal Aid

In many areas the applicant for legal aid may have to travel considerable distances to secure or to complete an application. The legal aid office might not be located in the nearest town. The applicant might not have anyone to handle correspondence with the legal aid office, nor the money to phone or even know where to phone. He, often, would not have the money to pay taxi fare to travel to the nearest town to make an application or to see a lawyer, if there is one within reach.

It is apparent that legal aid application forms must be available on reserves, whether it be with the band chief or other suitable person. The availability of these forms on the reserve must be well publicized. If the requirement of an affidavit prevents this, the affidavit should be dispensed with and be replaced by a declaration form that does not require an oath to be administered.

Application forms must also be available at some well-publicized place in each small community, whether it be at the local general store or police outpost. The person with whom applications are placed should have authority to make collect calls to the local Area Director for advice and possibly to arrange for travel warrants under proper circumstances to make it possible for the applicant to see a lawyer or to get his witnesses to Court and back.

2. Difficulties Created by Requirements of Financial Assessment

In some cases, the applicant may have to travel to the assessment officer rather than the assessment officer travel to him. The expense of such travel is often prohibitive. We were told repeatedly that the expense of the assessment itself was not justified in view of the fact that almost all native persons qualified after assessment.

Part I of this Report deals with the subject of the financial assessment procedure. We can only add our conclusion that in many of the areas of service to native people and other isolated areas, any benefits to be gained by the continued operation of the present system appear to be outweighed by the cost, delay and inconvenience resulting from its operation. It is submitted that in many instances whole reserves could be considered qualified without assessment where they are in receipt of public assistance.

3. Lack of Travel Expenses for Accused and Witnesses

Accused persons complained of the cost and expense involved in attending Court, attending trial and often, only to be remanded. It was stated that many accused could not bring their witnesses the distances involved, without funds or transportation being provided as is done for witnesses of the Crown. Furthermore, it was submitted that accused persons when they were acquitted have spent all funds available to get to Court and have no way to get back to the reserve.

We confirm our opinion that the issue of travel warrants in proper cases, at the discretion of the Area Director, should be authorized. We are also of the opinion that authorization of phone calls by Area Directors, in their discretion, to place applicants in communication with counsel or to facilitate delivery of legal aid should be permitted. Further, in the discretion of the Area Director, accused persons who have to travel substantial distances to make Court

appearances should be provided with travel warrants for themselves and their necessary witnesses. This last proposal may be considered to create a special advantage for such recipients over other citizens, but we consider it justified since the travel is necessitated by the distance from the isolated communities to the Courts.

4. Publicity and Education

It was apparent from our investigation that there was, on reserves, a serious lack of knowledge of the Plan and how to get a lawyer. Those who had heard of the Plan, it was said, did not know what to do to secure its benefits.

Part I of this Report contains recommendations as to the requirement of a public relations and information programme. It is our conclusion that, over and above any such Provincial programme, the means must be found to impart knowledge of the services available under the legal aid plan to isolated areas and native people living on reserves. The present operation is not accomplishing this in satisfactory measure, particularly to those who have not attended a Criminal Court and who cannot be reached by normal advertising channels. We have concluded that pamphlets, brochures, film strips and other suitable material, in the language of the community, should be available to and be utilized by a person in the community or on the reserve who would conduct an ongoing educational programme covering the services available.

5. Unmet Need in Civil Matters

We received conflicting evidence on the existence or extent of unmet civil need under the present operation of the Plan. In some areas a desire was expressed for advice in matters of family law, consumer law, credit matters, master and servant and motor vehicle law, but as one progressed farther away from the urban areas there was indication that no such need was recognized and that such matters were settled on the reserve.

It may be that it is impossible to assess such need until the service is available. However, we are of the opinion that it is not enough to suggest that duty counsel go into "fly-in" areas ahead of the Court or remain there afterward to deal with civil matters. We are satisfied that all matters of advice or assistance that are now brought to the attention of duty counsel are being properly handled, and that all legal aid applications are processed by the duty counsel before he leaves the area. We have witnessed the full co-operation of all members of the Court circuit group to enable the duty counsel to fulfil his responsibility properly.

It is our opinion, however, that whatever unmet need in civil matters may exist, it can best be dealt with by the ongoing presence of legal aid in the community or on the reserve. This will be referred to further in our remarks as to para-legal personnel.

6. Duty Counsel

We were informed that the duty counsel on "fly-in" circuits should come a day or so ahead of the Court so that he could deal with other matters than those on the Court docket and that he should stay longer on the reserve.

Duty counsel in turn, complained of delays forced on them by not being able to authorize certificates on the first appearance so they might proceed with the trial of the matter if preparation was considered adequate. It was pointed out that in proceeding to deal with the list as duty counsel, the lawyer suffered serious financial loss as a result of his dedication to the Plan.

We were also advised that fuller disclosure by the Crown prior to leaving for fly-in areas would permit early preparation and enable the duty counsel to make better use of his time at the site before trial and would minimize delay before hearings began. We are satisfied, from our inquiries, that full disclosure is ordinarily made, but that often the Crown Attorney does not receive his brief until he meets with the Police Officer stationed in the area concerned. Since a circuit usually involves more than one area of Police responsibility, the Crown, is unable to give more than a brief explanation of the charges pending before the circuit begins.

Duty counsel also complained that the daily tariff rate allowed for Court circuits which required them to be absent overnight was unrealistic and imposed unreasonably on those willing to do this work.

We are of the opinion that in areas where the duty counsel can drive to an outlying area, not served by a lawyer, he should be free to issue certificates and proceed with them if he considers he is properly prepared to do so. He would remain accountable to the Plan for the propriety of his actions. We are satisfied that the persons providing this service will not abuse such privileges and if any abuse should occur, it could be properly dealt with by Legal Aid Ontario and The Law Society.

A difference of opinion has arisen among us as to the desirability of having duty counsel fly-in in advance in areas which are not otherwise accessible. We will discuss these views later.

7. Native Court Worker Programme

We were advised of and observed the operation of the Native Court Worker Programme provided by the Federation of Friendship Centres, now jointly funded by the Provincial Ministry of Community and Social Services and the Federal Department of Justice. This organization presently provides eighteen native Court workers operating in various centres in the Province. These workers advise and assist native persons appearing before the Criminal Division of the Provincial Court and encourage the use of the legal assistance available to such persons.

We were told of the workers' need for a training course for Court workers and the need for further funds to extend the programme to other communities within the Province. We were informed there was frustration with the assessment procedure and complaints were received of the lack of accommodation for Court workers at Courts.

In Alberta, a similar Court Worker Programme exists, funded equally by the Federal Department of Northern Affairs and the Alberta Department of Northern Affairs. Its present budget is \$600,000.00 and it is administered by an independent native Board made up of an equal number of status Indians and Metis people.

The Saskatchewan Court Worker Programme is funded equally by the Department of Justice and the Provincial Attorney General's Department. In both Alberta and Saskatchewan training programmes for Court workers are conducted on a similar cost-sharing basis.

We are of the opinion that the Court Worker Programme is serving a very useful role and should be encouraged and provided with the funds to enable it to expand. We do not see, however, that legal aid should impose itself on this development to take over entirely a programme developed successfully by the Federation of Friendship Centres in Ontario. We consider that other ethnic groups should also be encouraged to produce Court workers and that their role should involve close liaison with the duty counsel. Duty counsel should provide them with all the accommodations possible and provide the advice and assistance required to enable them to perform their function. In the event that other Court workers were provided by other ethnic groups, the Plan should not be identified with the support of any one such organization.

We are of the opinion that legal aid should provide a training course for Court workers and this proposal will be referred to further in this report along with our recommendation as to the use of para-legal persons.

8. Group Certificates

We were informed by some band authorities that they desired the services of a lawyer for band purposes, to advise on legislation, to explain band rights, possibly to incorporate band business ventures and generally to advise with respect to other band matters.

In Part I of this Report we speak of group certificates generally and we are of the opinion that the same remarks apply to applications by band councils. In major native rights issues, however, provision of funds by Federal and Provincial governments for employment of counsel and related expenses, should continue to be the practise as has been done in the James Bay Development matter in Quebec and in the Northwest Territories in the pipeline issue.

9. Para-legal Personnel

We were informed that it would be desirable to have a native person on the reserve to provide information on legal aid and to assist in obtaining the same. The reserves desire a person who could give some advice and assistance and also take affidavits as a Commissioner.

It was also indicated that the need was for a person who could advise on more than legal matters, a person who by reason of some training in the social sciences could counsel and advise accordingly. The reserves want information to be available on the benefits and services that could be obtained under existing Plans, both Provincial and Federal. The role of this person was pictured as one that would include the conduct of prevention programmes both legal and social. Programmes particularly aimed at discouraging the excessive use of alcohol, and the recognition of property rights were mentioned. It was considered that the programme could also be designed to encourage constructive activities for the youth on the reserves.

The submission that para-legal persons should be used in the delivery of legal aid was found to be of such merit, not only for the role outlined to us,

but in all areas of delivery to isolated areas and native people, that we have found it necessary to recommend possible alternative alterations in structure to ensure that full advantage be taken of their role. These alternative recommendations will be discussed later. In any event, we recognize that a trained para-legal on the reserve or in any isolated community, full or part time, could handle legal aid applications, determine qualification, identify legal problems and, with assistance and proper supervision, conduct educational programmes on the benefits available under the Plan, on the operation of our Courts and on areas of interest to the residents of the community. The para-legal person's identification with the Plan would be known and any unmet civil need would come to his attention on a continuing basis. The nature and quantity of such need could be recorded for further study. The para-legal person should have the means to communicate any matter to his director for direction and it could then be properly processed. He could, in time, provide some advice and assistance to residents and the band.

We are of the opinion that persons to be trained as para-legals should be selected from those nominated by the isolated community or band for such training. A course of approximately six weeks' duration, with content approved by The Law Society and Legal Aid Ontario, should be provided. Such selected persons should be paid their expenses and a reasonable daily allowance while taking this training. On completion they would be considered qualified to return to the reserve or isolated community and assist in these areas. The training course, or a portion of it, could also serve for the training of the Court workers of the existing Federation of Friendship Centres. The training course presently conducted in Alberta and Saskatchewan could be studied in planning the course for Ontario.

10. Clinic Model of Delivery

Legal Aid Ontario would also have the responsibility of ensuring proper delivery of services to native people in urban areas or residing near urban areas. This would include all areas in Ontario where native people may be present in such numbers as to warrant special services. If a clinic type delivery could best serve these people in such circumstances, the Directors of the Plan could investigate and make such decisions. This would occur only after consultation with the Local Area Director, Area Committee and local Bar. Similarly, they might recommend the appointment of para-legal persons in urban or near urban areas.

11. Assisted Lawyer in Private Practice

There are also isolated communities such as Red Lake, with a population of some 6,000 people, without the services of a lawyer. The most economical and practical mode of delivery might well be the provision of a lawyer as the legal aid representative in the community with leave to engage in private practice. This could be achieved by the provision of a guaranteed minimum income, or by grants in assistance, under a programme similar to the joint Federal-Provincial Health Development Programme. In this manner the distribution of lawyers to areas of need could be effectively encouraged. The Area Director should be authorized to investigate and report on any such unserved areas and make recommendations, after consultation as previously stated, for decision by the governing body. The provision of services in this manner should also be authorized in the legislation.

AREAS OF SOME DISAGREEMENT — STRUCTURE AND FUNDING

From the above it is hopefully clear that we all agree that there are important and continuing roles to be played by duty counsel, Native Court Workers and para-legal personnel in this area. We have found difficulty, however, formulating a recommended structure which would define the precise roles of these persons, the appropriate agency to whom they should be responsible, the relationship that should exist between them and the methods of funding. These differences are far less pronounced in our views as to the role of duty counsel. Basically there are two different points of view which we will now outline.

It can be said at once that there is little difference between the aims of the proponents of these two views. All members are in agreement that there is urgent need for an allout effort to bring the standard of legal services and the techniques for the delivery of those services to a level approximating that reached in the more populous parts of the Province. All are substantially agreed on the sort of assistance that must be made available to bring this about. The differences between us can be said to relate to adjectival rather than substantive recommendations and emerge in three areas, those of what lawyers might call jurisdiction, though others might use the terms concern, structure and funding.

At the risk of over-simplification, it can perhaps be said that the Chairman, Dr. Hill, Professor Sadinsky and Mrs. Scace, Mr. Cory and Mr. Ross are of the view that on the reserves and particularly on the remote reserves, cultural, geographical and language differences are such as to make the usual professional boundary lines inapplicable. In conditions brought about by huge areas, small populations and the differences referred to, it does not serve the interests of the native or other peoples to attempt to confine the individuals concerned with the delivery of legal services to matters that would, in a more sophisticated, completely literate society with a broadly common background based on European mores, be defined as strictly legal. Many Indians have no appreciation of what is meant by a civil "right", no understanding of the concepts of "guilty" and "not guilty" under our criminal law and no way of telling whether domestic problems should be treated by "law" or "welfare". If there are to be resource people making assistance in such matters available on the reserves, as we all believe there must be, those holding this view are of the opinion that their training and field of responsibility must be more than "legal" and must qualify them also to identify the problems of most concern to their clients and to establish liaison between those clients and the relevant authorities, be they legal, social, educational or medical.

The Court Worker, where these are available, and the para-legal person on the reserves must, therefore, be more than a simple extension of duty counsel or of the Area Director and must serve as liaison officers to all departments, Federal or Provincial, concerned with the interests of native and Metis peoples.

This must, of course, be reflected in the training received by such persons and in the sources of funding available. More than in any other area which we have examined, we feel that if the native peoples are to be assisted by Legal Aid Ontario, that organization must work in close co-operation with an inter-governmental committee or body in co-ordinating the services of a variety of disciplines.

Putting it briefly, in these geographic areas Legal Aid cannot wear the same face as in the more populous parts of the Province. It must play a more

active role in the propagation of knowledge of legal rights and must be able to function as a liaison centre or clearing-house for the services of other organizations and other disciplines. It must be more than just another one of the innumerable bodies dealing ineffectively with native peoples and must suit the cultural concepts of those peoples, not those of southern Ontario.

Mr. Wallace with a quite proper concern for the traditional limits of legal services and the discipline of law, feels that the concern of persons on the reserves and elsewhere dealing with native peoples as representatives of Legal Aid, should be limited to legal matters, as traditionally defined, and that they should be restricted to liaison between potential clients on the one hand and duty counsel, Area Directors and, on occasion, counsel retained for specific purposes on the other.

As to structure, the majority of the members are persuaded that no scheme can succeed unless it carries with it the endorsement and support of those it is designed to serve. The history of our dealings with native peoples, very largely a discreditable one, has until very recent times been written in paternalistic terms. Plan after plan has ended in failure because it has been imposed from above and because the native peoples have been given little or no responsibility for its execution. These members feel strongly that the mere extension of the structure of Legal Aid Ontario to the reserves and to the native peoples will be doomed to fail once more unless the structure is such as to impose heavy responsibility upon the native organizations prepared to accept it, as most are, and unless the liaison services and the delivery modes are such as to command their support.

These members of the Task Force therefore feel that where the native Court Worker service is to be continued, mainly in the urban centres, and expanded, as we feel it should be, liaison between the Ontario Federation of Indian Friendship Centres and Legal Aid Ontario should be firmer and at a higher level than simply that of Court Worker-Duty Counsel. Such liaison should be strengthened and should be constant, but in addition there should be direct and constant communication between the Federation itself and either a sub-committee of the Board of Legal Aid Ontario or a Deputy Director, Native Peoples, whichever may be thought most appropriate, after consultation with the Federation and with the native organizations and Band Councils. Such Court Workers must continue to be employees of the Federation, not of Legal Aid Ontario, but training, advice and assistance must be constantly available from Legal Aid Ontario.

In the case of the reserves and distant communities, the majority feel once more that para-legal persons should not only be nominated by the Band Councils concerned, but should be employed by them, not by Legal Aid Ontario. There was virtual unanimity amongst the native representatives and chiefs that we met, or from whom we heard, that to succeed the para-legals must be *their* people, responsible to them. The establishment of priorities in their area of concern must be in accordance with the wishes of the people they serve and the recognized representative of such peoples in the Band organizations. While recognizing the dilemma with which we are faced, namely the request for funding and ultimate responsibility without complete control, the majority are so convinced of the importance of letting the native organizations assume responsibility, with the accompanying commitment to success, that they

are prepared to accept the obvious risk that mistakes will be made and funds wasted. One of the central ideas of Part I of our Report was that of greatly increased public participation by area committees and by lay representatives. What we are here recommending is a particular adaptation of that principle.

Mr. Wallace and Mr. Cory on the other hand, feel that the native Court Worker service represents a promising and so far effective initiative taken by the Ontario Federation of Indian Friendship Centres and that it should be left to develop independently, requiring only liaison between the Court Worker and duty counsel. As Legal Aid Ontario has and should have no control over that organization it should not be structurally related and to establish such a relationship would represent unwarranted interference.

With respect to para-legal persons on the Reserves, they feel that as such persons are to represent Legal Aid Ontario and to open the door to service by Legal Aid Ontario, they should not only be trained by that organization but should be its employees. Again, financial responsibility and professional concern require the degree of control that arises from the employer-employee relationship and anything less would represent abdication of responsibility by Legal Aid Ontario.

The two views taken can be approximately represented by the appended charts, so far as structure is concerned, the proposals favoured by the Chairman, Dr. Hill, Professor Sadinsky, Mrs. Scace and Mr. Ross being demonstrated in chart "A" and those approved by Messrs. Wallace and Cory in chart "B".

Furthermore, there are differences regarding methods of funding. Consistent with the view that para-legal persons on reserves should represent the front-line liaison and resource persons for more than merely legal services, the majority of the Task Force feel that the time has come when it would be advantageous for all funds being devoted to Indian welfare and advancement by various Governments and departments to be channeled through a single agency. We think that agency might well be the Department of the Attorney General and that administration of such funds could be deputed to Legal Aid Ontario, advised and assisted by the present, or, if thought advisable, a new inter-ministerial committee on Indian Affairs. Frustration, waste and inefficiency, we are told, are widespread under the present arrangements and a new era of co-ordinated services, responsive to the needs and requirements of the native peoples as they see them, not imposed from above, should be commenced.

Mr. Wallace is of the view that traditional areas of responsibility should be respected and that Legal Aid Ontario should be charged with and responsible for only such funds as are expended on legal services and their administration, as traditionally defined.

These, in outline, are the two approaches favoured by members of the Task Force. They relate to means, not ends. From what preceeded this discussion it will be apparent that there is very substantial agreement on what is needed. We must agree to disagree on methods.

Finally, there is one other point which caused some disagreement. Mr. Wallace and Professor Sadinsky felt that in fly-in areas the duty counsel should

not arrive earlier than the Court date. The expense, in their opinion, would not be justified by any benefit that would result. The Crown information sheet may not be available. The Police would not be available. They felt that the Chief would not understand the extent to which he should co-operate, having been responsible for the complaint in the first instance, and having requested the Court be held on his reserve. Without his assistance, witnesses would be difficult to obtain. However, they would recommend that Police officers should be instructed to forward briefs to the Crown in time to enable him to make full disclosure of all cases before the commencement of the circuit if possible.

The Chairman, Dr. Hill, Mrs. Scace, Mr. Cory, and Mr. Ross believe that wherever possible duty counsel should go into a fly-in reserve a day or two in advance of the Court. They feel that the importance of showing that duty counsel represents the accused or other client, not the Crown or the Court, makes it highly desirable that he should travel and arrive separately. In order to have a reasonable opportunity for proper preparation it would be useful for him to arrive before the Court. This system, we are told, is proving helpful in both Manitoba and Saskatchewan and is being well received. The members named feel that it should be tried in Ontario.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

The Honourable Mr. Justice John H. Osler

Peter deC. Cory, Q.C.

Dr. Daniel G. Hill

Alexander Ross

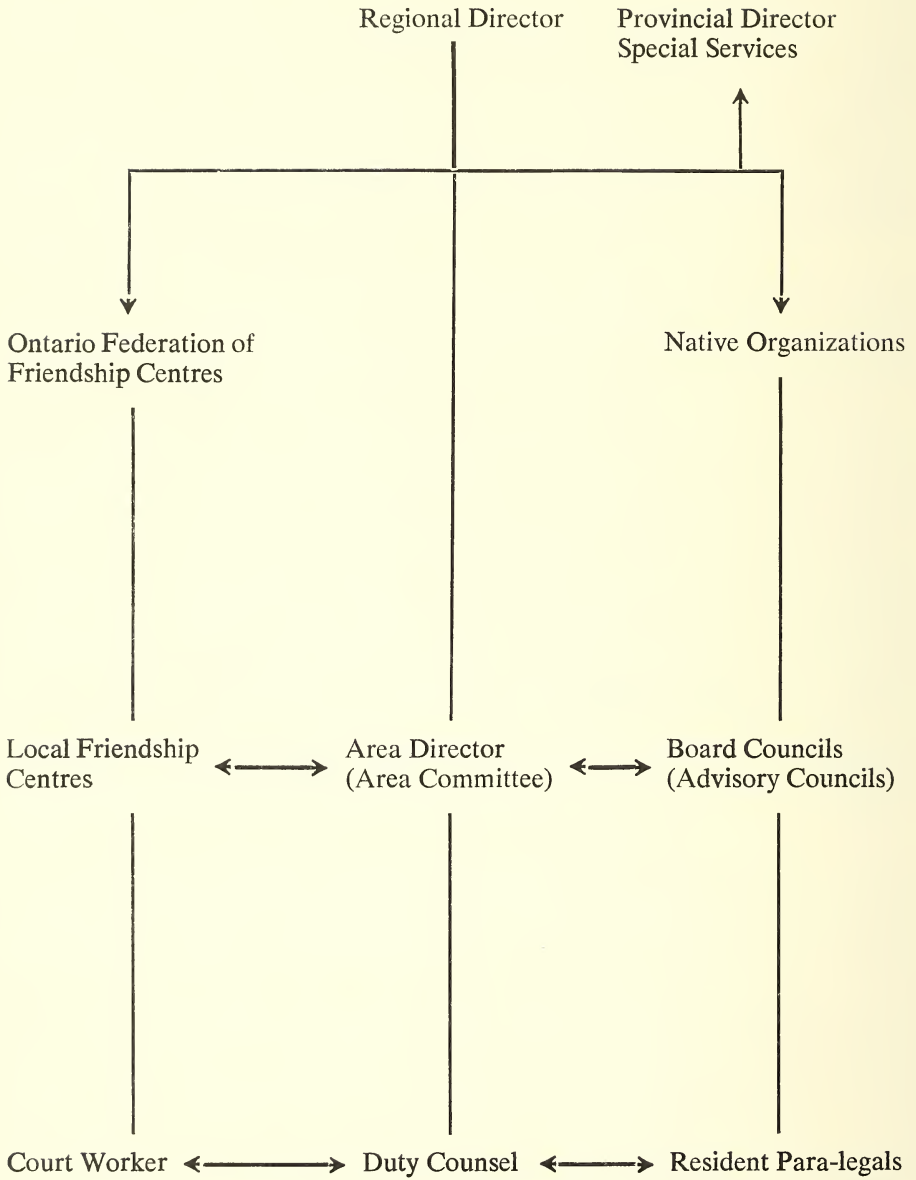
Stanley Sadinsky

Mrs. Anne Scace

Geo. E. Wallace, Q.C.

LEGAL AID PLAN

Provincial Director



LEGAL AID PLAN

Provincial Director

Assistant Provincial Director
Special Services

Area Director
Special Services

Para-legal in
isolated communities
and reserves (nominated
by band or community)

Area Director

Area Committee

liaison

Court Duty
Worker — Counsel

